

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

EASTERN CONTRACTORS, INC.,

Plaintiff,

v.

CITY OF WORCESTER and THOMAS R.  
HOOVER, City Manager, and, HEERY  
INTERNATIONAL, INC. and THOMAS E.  
ELLIS, JR.

Defendants.

C.A. NO. 03-12216MLW

**AFFIDAVIT OF GEORGE C. DEPTULA, ESQUIRE IN SUPPORT OF  
PLAINTIFF'S MOTION TO CONTINUE DEFENDANT'S, HEERY  
INTERNATIONAL, INC., AND THOMAS E. ELLIS, JR., MOTION FOR  
SUMMARY JUDGMENT**


1. I, George C. Deptula, am an attorney for Plaintiff, Eastern Contractors, Inc.  
(hereinafter "Eastern").
2. On October 9, 2003, Plaintiff amended its original Complaint and served suit  
against the Defendants, Heery International Inc. and Thomas E. Ellis, Jr.,  
(collectively "Heery"), in Massachusetts Superior Court in Middlesex County for,  
inter alia, violation of equal protection of rights, violation of substantive and  
procedural due process, wrongful rejection of bid, negligent misrepresentation,  
and interference with an advantageous relationship and violation of G.L. c. 93A.
3. On November 10, 2003, Defendants, Heery, filed, pursuant to 28 U.S.C.  
§14441(a), a notice of removal of this cause of action from Massachusetts


Superior Court in Middlesex County to the United States District Court for the District of Massachusetts, where it is now pending.

4. On September 17, 2004, Defendants, Heery, filed a Motion for Summary Judgment and for Entry of Separate and Final Judgment as to all claims asserted by Plaintiff, Eastern, well in advance of the discovery period.
5. The discovery schedule proposed a summary judgment deadline of April 30, 2005, after the completion of depositions on or before February 28, 2005.
6. Heery has objected to continued discovery in light of Heery's pending motion.
7. The parties are in the initial phases of discovery as outlined in the scheduling order provided by this Honorable Court. Documents have just been exchanged with objections from Defendants. No depositions have been taken, given that voluminous documents need to be fully reviewed.
8. Though Eastern has responded to the motion for summary judgment, more information would be expected, and necessary, specifically including the need to confront witnesses at promptly conducted depositions, and additional discoverable material within the documents only recently made available for inspection by Defendants, City of Worcester and Thomas Hoover.

9. Justice requires that, pursuant to Rule 56(f), said motion be continued until after court ordered discovery deadlines have expired.

Signed under the pains and penalties of perjury, this 5<sup>th</sup> day of November 2004.

  
George C. Deptula, BBO #120820  
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250 Summer Street, 2<sup>nd</sup> Floor  
Boston, Massachusetts 02210

  
Notary Public  
My Commission Expires:  
12/5/08

